



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0764]

RIN 1625-AA00, 1625-AA87

Safety Zones, St Petersburg Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish several safety zones within the Sector St Petersburg Captain of the Port Zone. This action would establish safety zones restricting port operations in the event of reduced or restricted visibility or disasters including hurricanes. It would also establish safety zones around firework platforms, structures or barges during the storage, preparation, and launching of fireworks.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal: <http://www.regulations.gov>.

(2) Fax: (202) 493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202) 366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Omar La Torre Reyes, Sector St. Petersburg Waterways Management Branch, U.S. Coast Guard; telephone (813) 228-2191, e-mail omar.latorereyes@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
COTP	Captain of the Port

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number USCG-2014-0764 in the "SEARCH" box and click "SEARCH." Click on "Submit a

Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0764) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of

an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

B. Regulatory History and Information

This proposed regulatory amendment will add safety zone regulations regarding port restrictions due to hurricanes and other disasters, reduced or restricted visibility as well as a safety zone around all fireworks barges, structures, and piers.

C. Basis and Purpose

The legal basis for this proposed rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 U.S.C. 1225; 33 CFR 1.05-1, 6.04-1, 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of these regulations are to ensure the safety of life on navigable waters of the United States through the addition of regulations regarding port regulations in the event of hurricanes and other disasters and reduced or restricted visibility. It will establish a safety zone around all firework barges, structures, and piers.

D. Discussion of Proposed Rule

This rule would establish three sections under 33 CFR 165.702: 1) a safety zones dictating port closures during hurricanes and other disasters; 2) seven segments of Tampa Bay's shipping channel to give the COTP flexibility in controlling and

reconstituting vessel traffic during periods of reduced or restricted visibility; and 3) a safety zone around all fireworks launching platforms, structures, or piers while engaged in launching operations. Notice will be given via Local Notice to Mariners.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Due to the unexpected and quick nature of hurricanes and other disasters, emergency temporary final rules are implemented for each individual event. This regulation is not significant regulatory action and will reduce time and paper work since an emergency temporary final rule would not have to be implemented

each time. This proposed rule provides advance notice of actions the Coast Guard intends to take in the event a natural disaster occurs.

There are already several special local regulations establishing regulated areas around fireworks events. The safety zone that is being added is not expected to have a significant regulatory action due to the use of safety zones temporary final rules for each event.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks

and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42

U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and Recordkeeping Requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

AUTHORITY: 33 U.S.C. 1225, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.780 to read as follows:

§ 165.780 Safety Zone; Hurricanes and other Disasters in Western Florida.

(a) Regulated Areas. The following areas are established as a safety zone during the specified conditions:

(1) All waters within the Sector St. Petersburg Captain of the Port zone encompassing all navigable waters or tributaries between or within Fenholloway River through Chokoloskee Pass, Florida.

(2) All coordinates are North American Datum 1983.

(b) Definitions.

(1) *Designated Representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the COTP, in the enforcement of regulated navigation areas, safety zones, and security zones.

(2) *Hurricane Port Condition WHISKEY* means condition set when weather advisories indicates sustained gale force winds (39-54 mph/ 34-47 knots) from a tropical or hurricane force storm are predicted to make landfall at the port within 72 hours.

(3) *Hurricane Port Condition X-Ray* means condition set when weather advisories indicates sustained gale force winds

(39-54 mph/ 34-47 knots) from a tropical or hurricane force storm are predicted to make landfall at the port within 48 hours.

(4) *Hurricane Port Condition YANKEE* means condition set when weather advisories indicate that sustained gale force winds (39-54 mph/ 34-47 knots) from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours.

(5) *Hurricane Port Condition ZULU* means condition set when weather advisories indicate that sustained gale force winds (39-54 mph/ 34-47 knots) from a tropical or hurricane force storm are predicted to make landfall at the port within 12 hours.

(c) Regulations. (1) *Hurricane Port Condition WHISKEY*. All vessel and port facilities must exercise due diligence in preparation for potential storm impacts. Ports and waterfront facilities shall begin removing all debris and secure potential flying hazards. Container stacking plans shall be implemented. Waterfront facilities that, due to space constraints, are unable to reduce container stacking height to no more than four high, must submit a container stacking protocol to the Captain of the Port (COTP).

(2) *Hurricane Port Condition X-Ray*. All vessels and port facilities shall ensure that potential flying debris is removed or secured. Hazardous materials/pollution hazards must be

secured in a safe manner and away from waterfront areas. Facilities continue to implement container stacking protocol. Containers must not exceed four tiers unless previously approved by the COTP. Containers carrying hazardous materials may not be stacked above the second tier. All oceangoing commercial vessels greater than 500-gross tons must prepare to depart the ports and anchorages within Tampa Bay. These vessels shall depart immediately upon the setting of Port Condition Yankee. Slow-moving vessels may be ordered to depart to ensure safe avoidance of the incoming storm. A COTP Order will be issued to vessels asked to depart early. COTP orders requiring vessel departure will be considered on a case-by-case basis. Vessels that are unable to depart the port must contact the COTP to request and receive permission to remain in port. Proof of facility owner/operator approval is required. Vessels with COTP's permission to remain in port must implement their approved mooring arrangement. Terminal operators shall prepare to terminate all cargo operations. The COTP may require additional precautions to ensure the safety of the ports and waterways. Coast Guard Port Assessment Teams will be deployed to validate implementation of Port Condition X-Ray. The COTP will convene the Port Heavy Weather Advisory Group (PHWAG) as deemed necessary.

(3) *Hurricane Port Condition YANKEE.* Affected ports are

closed to inbound vessel traffic. All oceangoing commercial vessels greater than 500-gross tons must have departed Tampa Bay. Appropriate container stacking protocol must be completed. Terminal operators must terminate all cargo operations not associated with storm preparations: Cargo operations associated with storm preparations include moving cargo within or off the port for securing purposes, crane and other port/facility equipment preparations, and similar activities, but do not include moving cargo onto the port or vessel loading/discharging operations unless specifically authorized by the COTP. All facilities shall continue to operate in accordance with approved Facility Security Plans and comply with the requirements of the Maritime Transportation Security Act (MTSA). Anticipate drawbridges may be closed to vessel traffic as early as eight hours prior to the arrival of tropical storm force winds. Coast Guard Port Assessment Teams will conduct Port Condition Yankee validation. The COTP will convene the Port Heavy Weather Advisory Group (PHWAG) as deemed necessary.

(4) *Hurricane Port Condition ZULU*. All port waterfront operations are suspended excepting final preparations as expressly permitted by the COTP necessary to ensure the safety of the ports and facilities. Coast Guard Port Assessment Teams will conduct final port assessments.

(5) *Emergency Restrictions for Other Disasters*. Any

natural or other disasters that are anticipated to affect the Sector St. Petersburg Captain of the Port zone will result in the prohibition of commercial vessel traffic transiting or remaining in the port or facility operations.

3. Add § 165.781 to read as follows:

§ 165.781 Safety Zone; Restricted Visibility in Tampa Bay.

(a) Regulated Areas. The following areas are established as safety zones during the specified conditions:

(1) Zone 1 (Interbay) means all navigable waters within a box marked by the following coordinates: 27°52'56"N, 82°29'44"W; thence to 27°52'50"N, 82°23'41"W; thence to 27°57'27"N, 82°23'50"W thence to 27°57'19"N, 82°29'39"W. This encompasses all navigable waterways north of Hillsborough Cut "C" Channel LB "25" (LLNR 23445) & "26" (LLNR 23450).

(2) Zone 2 (East Tampa/ Big Bend) means all navigable waters within a box marked by the following coordinates: 27°52'50"N, 82°23'41"W; thence to 27°46'36"N; 82°24'04"W; thence to 27°46'29"N, 82°31'21"W; thence to 27°52'59"N, 82°31'24"W. This zone encompasses all navigable waterways between Hillsborough Cut "C" Channel LB "25" (LLNR 23445) & "26" (LLNR 23450) to Cut "6F" (LLNR 22830) Channel.

(3) Zone 3 (Old Tampa Bay) means all navigable waters within a box marked by the following coordinates: 27°46'29"N, 82°31'21"W; 28°01'58"N, 82°31'39"W; thence to 28°02'01"N,

82°43'20"W; thence to 27°46'15"N, 82°43'24"W. This zone encompasses all navigable waterways between all of Old Tampa Bay to Cut "6F" (LLNR 22830) Channel.

(4) Zone 4 (Middle Tampa Bay) means all navigable waters within a box marked by the following coordinates: 27°46'34"N, 82°34'04"W; thence to 27°38'40"N, 82°31'54"W; thence to 27°44'38"N, 82°40'44"W; thence to 27°46'15"N, 82°40'46"W. This zone encompasses all navigable waterways between Cut "6F" (LLNR 22830) Channel to Tampa Bay "1C" (LLNR 22590).

(5) Zone 5 (Lower Tampa Bay/ Manatee) means all navigable waters within a box marked by the following coordinates: 27°44'33"N, 82°40'37"W; thence to 27°58'59"N, 82°40'34"W; thence to 27°36'18"N, 82°38'57"W; thence to 27°34'10"N, 82°34'50"W; thence to 27°37'56"N, 82°31'15"W. This zone encompasses all navigable waterways between Tampa Bay "1C" (LLNR 22590) to Sunshine Skyway Bridge.

(6) Zone 6 (Mullet Key) means all navigable waters within a box marked by the following coordinates: 27°38'59"N, 82°40'35"W; thence to 27°36'44"N, 82°44'13"W; thence to 27°32'20"N, 82°44'37"W; thence to 27°31'18"N, 82°38'59"W; thence to 27°34'09"N, 82°34'53"W; thence to 27°36'15"N, 82°39'00"W. This zone encompasses all navigable waterways between the Sunshine Skyway Bridge to Mullet Key Channel LB "21" (LLNR 22365) & "22" (LLNR 22370).

(7) Zone 7 (Egmont Entrance) means all navigable waters within the area encompassed by the following coordinates: 27°36'27"N, 82°44'14"W; thence to 27°39'46"N, 82°44'45"W; thence to 27°39'36"N, 83°05'10"W; thence to 27°32'29"N, 83°04'50"W; thence to 27°32'21"N, 82°44'42"W. This zone includes the fairway anchorages.

(b) Definition. (1) *Designated Representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the COTP, in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) Regulations. (1) Vessel should not commence an inbound, shift, or outbound transit during periods where visibility is less than one nautical mile due to fog or inclement weather.

(2) The COTP may open or close Tampa Bay or specific zones to vessel traffic described in the regulated areas section of this chapter.

4. Add § 165.782 to read as follows:

§ 165.782 Safety Zone; Firework Displays in Captain of the Port Zone St. Petersburg, Florida.

(a) Regulated Area. The following area is established as a safety zone during the specified conditions: All waters within the Sector St. Petersburg COTP Zone within a 500-yard radius of

all firework platforms, structures or barges during the storage, preparation, and launching of fireworks. Designated representatives may reduce the 500-yard zone based on prevailing conditions and enforcement needs.

(1) The Coast Guard realizes that some large scale events, such as those with many participants or spectators, or those that could severely restrict navigation or pose a significant hazard, may still require separate special local regulations or safety zones that address the specific peculiarities of the event. In those situations, the Coast Guard will create special local regulations or safety zones specifically for the event, and those regulations will supersede the proposed regulations in this rule.

(2) All firework platforms, structures or barges will also have a sign on their port and starboard side labeled "FIREWORKS - STAY AWAY". This sign will consist of 10-inch high by 1.5-inch wide red lettering on a white background. Shore fireworks site that affect navigable waterways will display a sign with the aforementioned specifications.

(b) Definition.

Designated Representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the COTP,

in the enforcement of regulated navigation areas, safety zones, and security zones. Captain of the Port (COTP) for the purpose of this section means the Commanding Officer of Coast Guard Sector St. Petersburg. Captain of the Port St. Petersburg Zone is defined in 33 CFR 3.35-35.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Coast Guard Captain of the Port St. Petersburg or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain in the regulated area may contact the Captain of the Port St. Petersburg via telephone at (727)-824-7506, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain in the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(3) The Coast Guard will provide notice of the regulated area via Broadcast Notice to Mariners or by on-scene designated representatives. Fireworks platforms, piers, and structures will

also have signs to notify the public of the danger and to keep away.

(4) This regulation does not apply to authorized law enforcement agencies operating within the regulated area.

Dated: February 11, 2015

G. D. Case,
Captain, U.S. Coast Guard,
Captain of the Port.

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